

Town of Shirley

Massachusetts



WARRANT

for the

SPECIAL TOWN MEETING

Monday
September 24, 2012
7:15 PM
Ayer-Shirley Regional Middle School
Auditorium
1 Hospital Road

Town of Shirley Warrant, Special Town Meeting, September 24, 2012

ORDER OF ARTICLES

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NOTICE

If the business of this Warrant for the Special Town Meeting is not concluded on September 24th, it is proposed to adjourn as follows, provided that the Meeting so votes: to Tuesday, September 25th, 2012 at 7:15 p.m.

List of Warrant Articles with Recommendations

Article #	Brief Article Title	FinCom Recomm	Selectmen Recomm	Tax Impacts/\$1,000 Assessed Value
1	Pay Prior Year's Bill (\$47,313.18)			
2	Pay Prior Year's Bill (\$2,571.61)			
3	Amend Appropriations for FY13			
4	Appropriate for Purchase of New Police Cruiser for FY13(\$33,500)			
5	Appropriate for Purchase of New DPW Pickup Truck for FY13 (\$40,250)			
6	Appropriate for Repair of Drainage onto Harvard Road (\$15,000)			
7	Amend Article VII, Section 14 of the Town By-Laws (Alcoholic Beverages Open Container Prohibition)			
8	Amend Article VII of the Town By-Laws by Adding New Section 16 (Marijuana Use Prohibition)			
9	Amend Section VI, Subsection C.1.c. of the Regional School District Agreement by Adding New Subsection (3) (Assessment of Debt Service)			
10	Transfer Land for Sale/Conveyance by Selectmen			
11	Transfer to General Stabilization Fund for FY13			
12	Transfer to CIP Stabilization Fund for FY13			

*FAV = Favorable action recommended; *UNFAV* = Unfavorable action recommended

Note that Finance Committee recommendations may not be available until after the Selectmen's warrant is published.

**Town of Shirley
Special Town Meeting
September 24, 2012
Warrant**

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss.

To any of the Constables of the Town of Shirley in said County,

Greetings:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the Inhabitants of said Town, qualified to vote in Town affairs, to assemble in the Auditorium of the Ayer-Shirley Regional Middle School at 1 Hospital Road in Shirley on

Monday, the Twenty-fourth Day of September, 2012, at 7:15 p.m.,

then and there to act on the following Articles:

Article 1. Pay Prior Year's Bill (\$47,313.18)

To see if the Town will vote to appropriate \$47,313.18 to be expended by Public Buildings, from Line Item 192, to pay the FY12 Town sewer assessment in lieu of a betterment, such appropriation to be provided by transfer from the General Stabilization Fund; or take any other action relative thereto.

<u>Department</u>	<u>Line Item</u>	<u>Vendor</u>	<u>Goods/Services</u>	<u>Amount (\$)</u>
Public Buildings	192	Sewer Commission	Sewer Assessment	47,313.18

Article 1. Pay Prior Year's Bill (\$47,313.18) - Explanation:

In order for the Town to close its books on a fiscal year and submit financial reports to the Commonwealth on a timely basis, departments must submit all charges against their budgets to the Town Accountant by July 15th. The fiscal year ends on June 30th of each year. However, on a few occasions, there are invoices that are received well past the July 15th deadline. These situations are usually associated with recurring monthly or quarterly bills. However, the May Annual Town Meeting took no action on the article funding this assessment and the assessment for FY13, which appears in Article 3 below, pending an opinion by Town Counsel as to the legality of the payment; Town Counsel has given the opinion that such a payment is legal. This \$47,313.18 will be funded from the General Stabilization Fund.

A nine-tenths vote is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 2. Pay Prior Year's Bill (\$2,571.61)

To see if the Town will vote to appropriate \$2,571.61 to be expended from the Ambulance Enterprise Fund, Line Item 231, to pay Townsend Ford for ambulance repairs; to be paid from User Fees; or take any other action relative thereto.

<u>Department</u>	<u>Line Item</u>	<u>Vendor</u>	<u>Goods/Services</u>	<u>Amount (\$)</u>
Ambulance Ent. Fund	231	Townsend Ford	Ambulance Repair	2,571.61

Article 2. Pay Prior Year's Bill (\$2,571.61) - Explanation:

In order for the Town to close its books on a fiscal year and submit financial reports to the Commonwealth on a timely basis, departments must submit all charges against their budgets to the Town Accountant by July 15th. The fiscal year ends on June 30th of each year. However, on a few occasions, there are invoices that are received well past the July 15th deadline. These situations are usually associated with recurring monthly or quarterly bills. However, a \$2,571.61 bill from Townsend Ford for repairs to the ambulance that were incurred due to a problem with the ambulance in June of 2012 was submitted well after the deadline. This bill is to be funded from User Fees.

A nine-tenths vote is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 3. Amend Appropriations for FY13

To see if the Town will vote to amend the amounts appropriated under Article 4 of the Warrant for the May 21, 2012 Annual Town Meeting for the specified line items and accounts of the following departmental budgets for FY13; said amounts to designate funding sources for the annual budget as amended; such amounts to be provided by taxation and by transfer from available funds; or take any other action relative thereto.

TOWN OF SHIRLEY – FY13 BUDGET

Line Item #	Department/Account Name	FY13 Approved	Amendment	FY13 Revised
124	Personnel-Expenses	\$200.00	\$10,000.00	\$10,200.00
192	Public Buildings-Town Sewer Payment in Lieu of Betterment	\$0.00	\$46,538.00	46,538.00
211	Police Department-Salaries, Wages & Hourly (Union)	\$588,021.00	\$28,257.00	\$616,278.00
211	Police Department-Expenses	\$92,010.00	\$3,095.00	\$95,105.00
422	DPW-Wages Hourly, Public Works Assistant	\$16,468.00	\$6,177.00	\$22,645.00
541	Council on Aging-Wages Hourly, Director	\$18,792.00	\$6,677.00	\$25,469.00
611	Library-Salary, Appointed Position	\$43,270.00	\$4,652.00	\$47,922.00
711	General Fund Debt Service/Long-term Principal, Debt Excluded, 6/28/11	\$221,767.00	\$20,938.00	\$242,705.00
711	General Fund Debt Service/Long-term Interest, Debt Excluded, 6/28/11	\$53,935	\$324.28	\$54,259.28
711	General Fund Debt Service/Short-term Interest, Debt Excluded, 6/28/11	\$129,921	(\$23,904.98)	\$106,016.02
711	General Fund Debt Service/Short-term Interest, Not Excluded	\$0.00	\$523.07	\$523.07

711	General Fund Debt Service/Long-term Principal, Not Excluded	\$0.00	\$500.00	\$500.00
711	General Fund Debt Service/Long-term Interest, Not Excluded	\$0.00	\$283.25	\$283.25
914	Group Health Insurance-Expenses (for Police Officer)	\$653,195.00	\$7,143.00	\$662,719.00

Article 3. Amend Appropriations for FY13 (\$111,203) - Explanation:

Line Item 124 Personnel Expenses: Raise and appropriate the sum of \$10,000 to be expended by the Personnel Board for the purpose of hiring a consultant to conduct comprehensive salary/classification analysis of all non-union positions.

Line Item 192 Public Buildings – Town Sewer Payment in Lieu of Betterment: Raise and appropriate the sum of \$46,538 for the cost of annual Town Sewer Payment in lieu of betterment. This article was held at the Annual Town Meeting pending an opinion from Town Counsel. (See explanation for Article 1 above for further details.)

Line Item 211 Police Department-Salaries, Wages & Hourly (Union): Raise and appropriate the sum of \$28,257 to hire one additional police officer as of December 1, 2012, with the Police Chief switching to a 5 & 2 work schedule from the current 4 & 2 work schedule.

Line Item 211 Police Department-Expenses: Raise and appropriate the sum of \$3,095 to pay uniform expenses, body armor, and related expenses for one additional police officer.

Line Item 422 DPW-Wages Hourly, Public Works Assistant: Raise and appropriate the sum of \$6,177 to increase the weekly hours by 10 from 20 to 30, as of October 1, 2012.

Line Item 541 Council on Aging-Wages Hourly, Director: Raise and appropriate the sum of \$6,677 to increase the weekly hours by 9 from 19 to 28, as of October 1, 2012.

Line Item 611 Library-Salary, Appointed Position: Raise and appropriate the sum of \$4,652 to increase the weekly hours by 5 from 30 to 40, as of October 1, 2012.

Line Item 711 General Fund Debt Service: Due to favorable re-financing of debt, the budgeted amounts for long-term and short-term principle and interest have changed, with a net decrease of \$1,336.38.

Line Item 914 Group Health Insurance-Expenses: Raise and appropriate the sum of \$7,143 to fund the employee's portion (75%) of a family health insurance plan for one additional police officer as of December 1, 2012.

A majority vote is required for the passage of this article, unless any funds are from a stabilization fund, in which case a two-thirds majority is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 4. Appropriate for Police Cruiser for FY13 (\$33,500)

To see if the Town will vote to appropriate the sum of \$33,500 from available funds to purchase a police cruiser; or take any other action relative thereto.

Article 4. Appropriate for Police Cruiser for FY13 (\$33,500) - Explanation:

This article provides funding for one of two police cruisers, one of which has been purchased. Since the Town has not purchased police cruisers on its regular schedule in the recent past, it was recommended in the current capital plan to replace two cruisers in FY13 (see the FY13 Capital Budget). Due to funding constraints, the Town took no action on the article at the May 2012 Annual Town Meeting. The purchase is contingent upon the availability of funds. The source of funds will be specified in the motion.

A majority vote is required for the passage of this article, unless the funds are from a stabilization fund, in which case a two-thirds majority is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 5. Appropriate for Pick-up Truck for FY13 (\$40,250)

To see if the Town will vote to appropriate the sum of \$40,250 from available funds to purchase a pick-up truck with a plow; or take any other action relative thereto.

Article 5. Appropriate for Pick-up Truck for FY13 (\$40,250) - Explanation:

This article provides funding for a much-needed pick-up truck with a plow. Since the Town has not purchased such trucks on its regular schedule in the recent past, it was recommended in the current capital plan to purchase this truck to replace older, damaged trucks (see the FY13 Capital Budget). Due to funding constraints, the Town took no action on the article at the May 2012 Annual Town Meeting. The purchase is contingent upon the availability of funds. The source of funds will be specified in the motion.

A majority vote is required for the passage of this article, unless the funds are from a stabilization fund, in which case a two-thirds majority is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 6. Appropriate for Repair of Drainage onto Harvard Road

To see if the Town will vote to appropriate the sum of \$15,000 from available funds to repair drainage structures within a Town easement on the property located at 71 Harvard Road to alleviate existing drainage (flooding) issues along Harvard Road; or take any other action relative thereto.

Article 6. Appropriate for Repair of Drainage onto Harvard Road (\$15,000) - Explanation:

This article provides funding for much-needed repair of existing but deteriorated drainage structures located within a Town easement on the property at 71 Harvard Road. For years this deteriorated drainage system has not operated correctly, causing severe flooding and damage to private property along Harvard Road, where there is currently no drainage system. It is anticipated that restoration and repair of the system (restoration of swales and installation of drainage under the driveway) on 71 Harvard Road will help alleviate the flooding problems, directing the drainage to the Catacunemaug Brook as originally designed. The DPW has obtained estimates for the work confirming a cost of about \$15,000, which cost is not included in its FY2013 budget. The source of funds will be specified in the motion.

A majority vote is required for the passage of this article, unless the funds are from a stabilization fund, in which case a two-thirds majority is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact

Article 7. Amend Article VII, Section 14 of the Town By-Laws by Replacing Existing Section 14 (Alcoholic Beverages Open Container Prohibition)

To see if the Town will vote to amend Article VII, Section 14 of the Town By-Laws by deleting existing Section 14 and replacing it with a new Section 14, as follows; or take any other action relative thereto.

No person shall drink from or possess an open container of any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws, while on, in, or upon any public way, sidewalk, or upon any way to which the public has a right of access, or a public park, playground, or any private land or place without the consent of the owner or person in control of such public or private land or place. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charges against the person or persons arrested or summoned before the court. Upon final adjudication of the charges against the person or persons arrested or summoned, and upon direction of the adjudicating authority, such alcoholic beverage shall be returned to the person entitled to lawful possession. Such alcoholic beverages must be claimed by said person with seven (7) days after final adjudication, or they shall be destroyed by the seizing authority. Violation of this bylaw is punishable by a fine of not less than fifty (\$50) dollars for the first offense, and by a fine of not more than one hundred (\$100) dollars for a second or subsequent offenses.

Article 7. Amend Article VII, Section 14 (Alcoholic Beverages) - Explanation:

*This article will allow the Town to police and enforce the current prohibition against drinking alcoholic beverages in public and other specified places whenever an **open** container of an alcoholic beverage is observed; currently, policing and enforcement is restricted to observation of **actual consumption or drinking**. In addition, the new wording is in line with the wording of several nearby town bylaws, and will eliminate the need to send all alcohol to the state laboratory to be tested.*

A majority vote is required for the passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

Article 8. Amend Article VII of the Town By-Laws by Adding New Section 16 (Marijuana Use Prohibition)

To see if the Town will vote to amend Article VII, by adding to the Town By-Laws a new Section 16, as follows; or take any other action relative thereto.

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in Chapter 94C, Section 1 of the Massachusetts General Bylaws, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school house, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public. The fine for violation of this bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under Chapter 94C, Section 32L of the Massachusetts General Laws, as amended.

Article 8. Amend Article VII, By Adding New Section 16 (Marijuana) - Explanation:

State law currently imposes a \$100 fine for violating the marijuana prohibition, but if the fine is not paid the Town must go to small claims court to enforce and collect the fine, at a cost of \$20. This bylaw creates a non-small claims court process for collecting the fine, plus it imposes an additional \$300 fine that, if not paid within 20 days, automatically becomes a court complaint with no additional fees to be paid by the Town. Currently, the Town has no bylaw relating to the use of marijuana.

A majority vote is required for the passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

Article 9. Amend Section VI, Subsection C.1.c. of the Regional School District Agreement by Adding New Subsection (3) (Assessment of Debt Service)

To see if the Town will vote to amend the Ayer Shirley Regional School District Agreement, Section VI, Apportionment of Costs Incurred by the District, by adding a new Subsection (3) under Subsection C.1.c., as follows; or to take any action relative thereto.

(3) Contingent upon the approval by the Towns of Ayer and Shirley of the incurring of debt in the amount approved by the Regional School Committee in fiscal year 2013 for the renovation of the District's high school located in Ayer (referred to in the balance of this paragraph as the "High School Debt"), and contingent upon the successful passage of a Proposition 2½ debt exclusion by the voters of each town relative to said High School Debt, the following will occur. Commencing in fiscal year 2014, the assessment of capital costs on account of the High School Debt to the Town of Ayer will be increased by an additional annual amount (referred to in the balance of this paragraph as the "additional capital cost assessment") above the assessment to Ayer on account of said High School Debt that would normally occur under Section VI, subsection C.1.c.(2) of the Regional Agreement, and the assessment of capital costs assessed to the Town of Shirley on account of the High School Debt shall be decreased by a like amount in each fiscal year. Said additional capital cost assessment will be equal to a portion of the debt service

payments that are due to be paid by the Town of Shirley in that same fiscal year on bonds issued for the original construction of the school which was formerly known as the Shirley Middle School. Said additional capital cost assessment will be calculated consistent with Section VI, subsection C,1,c,(2) of the Regional Agreement when that language is applied to the Middle School, and this additional capital cost adjustment shall continue so long as the school formerly known as the Shirley Middle School is used as the District's middle school, and until the bonds of the Town of Shirley attributable to said school are paid off. In fiscal year 2014, and in any subsequent fiscal year in which the amount of Shirley's capital cost assessment on account of the High School Debt would be reduced to less than zero, the amount of Ayer's capital cost assessment on the High School Debt that would have otherwise reduced Shirley's capital cost assessment below zero on account of the High School Debt shall be deposited into a separate stabilization fund of the District established in accordance with Chapter 71, Section 16G½ of the General Laws, the establishment of which is hereby approved, and will be applied by the District in future fiscal years to reduce capital cost assessments on the High School Debt to the Town of Shirley in such amounts as the District School Committee determines, after seeking input from the Selectmen of the Town of Shirley.

Article 9. Amend Section VI, Subsection C.1.c. of the Regional School District Agreement by Adding New Subsection (3) (Assessment of Debt Service) - Explanation:

In order to decrease the overall expense to the Towns, the District is proposing a more limited renovation/addition to the District's high school in Ayer than was originally planned, and is consequently considering the continued use of the former Shirley Middle School as the District's Middle School. Because a majority of the students who will attend the Middle School reside in Ayer, while the Town of Shirley continues to make debt service payments on the bonds that were issued for the original construction of the Shirley Middle School, the Regional School Committee proposes that Ayer should pay a commensurately larger assessment for the debt attributable to the high school renovation until the bonds on the Shirley Middle School are paid off. The language of the proposed amendment makes it clear that this arrangement is contingent upon the approval of the incurring of debt for the high school renovation in the amount approved by the Regional School Committee and contingent upon the successful passage of a Proposition 2½ debt exclusion by the voters of each town relative to the high school debt.

A majority vote is required for the passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

Article 10. TRANSFER LAND FOR SALE/CONVEYANCE BY SELECTMEN (PARCELS 82-C-6 AND 121-B-1)

To see if the Town will vote to transfer to the Board of Selectmen, for the purpose of sale or conveyance, the care and custody of parcels of vacant Town-owned land, one parcel located on Kittredge Road (.06 acres in the R1 zoning district, assessed at \$5,600) and one parcel on Townsend Road (.43 acres in the RR zoning district, assessed at \$9,600), shown on the Assessors' maps as Parcels 82-C-6 and 121-B-1 respectively, and authorize the Board of Selectmen to sell or convey said property; or take any other action relative thereto.

Article 10. Transfer Land for Sale/Conveyance by Selectmen - Explanation:

This article would declare vacant Parcels 82-C-6 and 121-B-1 as surplus, and allow the Selectmen to dispose of the property by sale or other conveyance.

A two-thirds vote is required for the passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

Article 11. Transfer to the General Stabilization Fund for FY13

To see if the Town will vote to transfer from available funds a sum or sums of money to the General Stabilization Fund of the Town; or take any other action relative thereto.

Article 11. Transfer to the General Stabilization Fund for FY13 - Explanation:

Should additional revenues be recognized since the Annual Town Meeting in May of 2012, the Town has the means to “capture” those revenues with this article, and deposit those receipts into the General Stabilization Fund.

A two-thirds vote is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

Article 12. Transfer to the Capital Stabilization Fund for FY13

To see if the Town will vote to transfer from available funds a sum or sums of money to the Capital Stabilization Fund of the Town; or take any other action relative thereto.

Article 12. Transfer to the Capital Stabilization Fund for FY13 - Explanation:

Should additional revenues be recognized since the Annual Town Meeting in May of 2012, the Town has the means to “capture” those revenues with this article, and deposit those receipts into the Capital Stabilization Fund.

A two-thirds vote is required for passage of this article.

FinCom Recommendation	Selectmen Recommendation	Tax Impact
		NONE

* * * *

* * * *

And you will serve this Warrant by posting true and attested copies of same at the Town Offices and the Hazen Memorial Library in Shirley Village, at the Center Town Hall in Shirley Center, and a like copy at the United States Post Office in Shirley Village, fourteen days at least before the time appointed for said Meeting.

Hereof fail not and make due return of this Warrant with your doings therein to one of the Selectmen, on or before the date of the Meeting.

Given under our hands at Shirley, this _____ Day of September, 2012.

BOARD OF SELECTMEN

Armand Deveau
Chair

David N. Swain
Vice Chair

Kendra J. Dumont
Clerk

A true copy.
Attest:

Amy R. McDougall
Town Clerk

* * * *

* * * *

RETURN OF SERVICE

I certify that on the _____ Day of _____, 2012, I duly posted true and attested copies of the foregoing Warrant at the following places and times:

Town Offices _____M.

U. S. Post Office _____M.

Center Town Hall _____M.

Hazen Memorial Library _____M.

Constable, Signature

Constable, Printed Name

* * * *